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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

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9 Valentino Dimitrov,

No. CV-23-00226-PHX-DJH

10 Plaintiff,

RULE 16 SCHEDULING ORDER

11 v.

12 Stavatti Aerospace Limited, et al.,

13 Defendants.

14
15 On December 11, 2023 the parties filed their Rule 26(f) Joint Case Management
16 Report (Doc. 38). On the basis of that joint report and in accordance with Rule 16(b)(1)
17 of the Federal Rules of Civil Procedure,

18 **IT IS ORDERED** as follows:

19 1. Deadline for Initial Disclosures. Initial disclosures required by Federal
20 Rule of Civil Procedure 26(a), if not already exchanged, shall be exchanged no later than
21 January 31, 2024. The parties shall file with the Clerk a Notice of Initial Disclosure,
22 rather than copies of the actual disclosures.

23 2. Deadline for Joining Parties, Amending Pleadings, and Filing Supplemental
24 Pleadings. The deadline for joining parties, amending pleadings, and filing supplemental
25 pleadings is **60 days** from the date of this Order.

26 3. Discovery Limitations. Depositions shall be limited to seven hours each as
27 Rule 30(d) of the Federal Rules of Civil Procedure provides. The number of depositions
28 and interrogatories are governed by the limits in Rules 30, 31, and 33 of the Federal

1 Rules of Civil Procedure. Therefore, each party is limited to 10 depositions and 25
2 interrogatories, including all discrete subparts. The procedures for requests for
3 admissions and requests for production in Federal Rules of Civil Procedure 34 and 36 are
4 modified to limit each party to 25 requests for production of documents, including
5 subparts, and 25 requests for admissions, including subparts.

6 A party may seek an order expanding the above discovery limitations if it proves
7 to be necessary.

8 4. Deadline for Completion of Fact Discovery. The deadline for completing
9 fact discovery, including discovery by subpoena, shall be September 30, 2024. To ensure
10 compliance with this deadline, the following rules shall apply:

11 a. Depositions: All depositions shall be scheduled to commence at
12 least **five working days** prior to the discovery deadline. A deposition commenced five
13 days prior to the deadline may continue up until the deadline, as necessary.

14 b. Written Discovery: All interrogatories, requests for production of
15 documents, and requests for admissions shall be served at least **45 days** before the
16 discovery deadline.

17 c. The parties may mutually agree in writing, without Court approval,
18 to extend the time provided for discovery responses in Rules 33, 34, and 36 of the Federal
19 Rules of Civil Procedure. Such agreed-upon extensions, however, will not alter or extend
20 the discovery deadlines set forth in this Order.

21 d. Special Provisions Regarding Rule 34 Responses. Objections to
22 Rule 34 document production requests shall be stated with specificity; general or
23 boilerplate objections are not permitted. Document production in response to a Rule 34
24 request must be completed no later than the time specified in the request or another
25 reasonable time specified in the response. An objection to a Rule 34 request must state
26 whether any responsive materials have been withheld on the basis of that objection.

27 5. Deadlines for Disclosure of Experts and Completion of Expert Discovery.

28 a. Plaintiff(s) shall provide full and complete expert disclosures as

1 required by Rule 26(a)(2) of the Federal Rules of Civil Procedure no later than
2 November 30, 2024.

3 b. Defendant(s) shall provide full and complete expert disclosures as
4 required by Rule 26(a)(2) of the Federal Rules of Civil Procedure no later than
5 January 31, 2025.

6 c. Rebuttal expert disclosures, if any, shall be made no later than
7 March 31, 2025. Rebuttal experts shall be limited to responding to opinions stated by
8 initial experts.

9 d. Expert depositions shall be completed no later than June 30, 2025.
10 As with fact witness depositions, expert depositions shall be scheduled to commence at
11 least **five working days** before the deadline.

12 e. Disclosures under Rule 26(a)(2)(A) must include the identities of
13 treating physicians and other witnesses who have not been specially employed to provide
14 expert testimony in this case, but who will provide testimony under Federal Rules of
15 Evidence 702, 703, or 705. A Rule 26(a)(2)(B) report is required for any opinion of such
16 witnesses that was not developed in the course of their treatment or other factual
17 involvement in this case.

18 f. As the Advisory Committee Notes to Rule 26 (1993 Amendments)
19 state, expert reports disclosed under Rule 26(a)(2)(B) must set forth “the testimony the
20 witness is expected to present during direct examination, together with the reasons
21 therefor.” Full and complete disclosures of such testimony are required on the dates set
22 forth above; absent truly extraordinary circumstances, parties will not be permitted to
23 supplement their expert reports after these dates.

24 g. Each side is limited to one retained or specially employed expert
25 witness per issue.

26 h. Pursuant to Rule 26(e)(1), any additions or other changes to
27 information previously disclosed must be made prior to the time that Rule 26(a)(3)
28 Pretrial Disclosures are due. Since this Court effectively requires all Rule 26(a)(3)

1 Pretrial Disclosures to be contained in the joint Proposed Final Pretrial Order, this Order
2 contemplates that all exhibits and witnesses that may be offered at trial will have been
3 disclosed before the close of discovery as established by this Order. This Order therefore
4 supersedes the “thirty-day before trial” disclosure deadline contained in that Rule.
5 Therefore (1) failure to have timely supplemented a Rule 26(a) disclosure, (2) failure to
6 have timely supplemented responses to discovery requests, or (3) attempting to include
7 any witnesses or exhibits in the joint Proposed Final Pretrial Order that were not
8 previously disclosed prior to the discovery deadline set forth in this Order, may result in
9 the exclusion of such evidence at trial or the imposition of other sanctions.

10 6. Discovery Disputes. The parties shall not file written discovery motions
11 without leave of Court. If a discovery dispute arises and cannot be resolved despite
12 sincere efforts to resolve the matter through personal consultation (in person or by
13 telephone), the parties shall **jointly file** (1) a brief written summary of the dispute, not to
14 exceed two pages, with explanation of the position taken by each party and (2) a joint
15 written certification that the counsel or the parties have attempted to resolve the matter
16 through personal consultation and sincere effort as required by LRCiv 7.2(j) and have
17 reached an impasse. If the opposing party has refused to personally consult, the party
18 seeking relief shall describe the efforts made to obtain personal consultation. Upon
19 review of the filed written summary of the dispute, the Court may set an in-court hearing
20 or telephonic conference, order written briefing, or decide the dispute without conference
21 or briefing. If the Court desires supplemental briefing prior to a hearing, counsel will be
22 notified by order of the Court. Any briefing ordered by the Court shall comply with
23 LRCiv 7.2(j).

24 Absent extraordinary circumstances, the Court will not entertain fact discovery
25 disputes after the deadline for completion of fact discovery and will not entertain expert
26 discovery disputes after the deadline for completion of expert discovery.

27 7. Deadline for Filing Dispositive Motions.

28 a. Dispositive motions shall be filed no later than July 31, 2025. Such

1 motions must comply in all respects with the Federal Rules of Civil Procedure and the
 2 Local Rules.

3 b. **Summary Judgment Requirements:** This Court is suspending
 4 LRCiv 56.1, except subsection (d). The Court will decide summary judgment motions
 5 under Fed.R.Civ.P. 56 only. Therefore, the parties may not file separate statements of
 6 facts or controverting statements of facts. Rather, the parties must include all facts in the
 7 motion, response, or reply itself. All evidence to support a motion or response must be
 8 attached to the motion or response and consistent with LRCiv 56.1(f). The evidence may
 9 include only relevant excerpts rather than full documents. No evidence may be submitted
 10 with a reply. Each citation to evidence in support of a fact must include a pin citation to
 11 the specific page(s) proving that fact.¹

12 Procedurally, immediately following the motion should be a *numerical*
 13 table of contents of the exhibits. The table of contents shall include only a title for each
 14 exhibit, not a description. Following the table of contents should be each exhibit,
 15 *numbered* individually. Immediately following the response to the motion should be an
 16 *alphabetical* table of contents. The table of contents shall include only a title for each
 17 exhibit, not a description. Following the table of contents should be each exhibit, labeled
 18 *alphabetically*. For example, citations to exhibits to the motion would be "(Ex. 1 at 7),"
 19 and citations to exhibits to the response would be "(Ex. D at 3)."

20 c. No party shall file more than one motion for summary judgment

21 ¹ The Court is revising its summary judgment review practice due to the routine
 22 misuse of statements of facts, a misuse evidenced by statements of facts which
 23 significantly exceed the motion/response in length and/or lack pin cites directing the
 24 Court to facts within voluminous materials. There should never be a fact in a statement
 25 of facts or controverting statement of facts that was not in the motion/response. The
 26 problem is compounded when – for example – a statement of facts cites to 100 pages
 27 (e.g., a deposition) without any pin cite to where an asserted fact is contained therein.

28 **No party shall presume the Court will hunt for facts or theories that might
 29 support either party's case. The Court will rely solely upon the attached evidence to
 30 verify facts asserted in the motion, response, or reply as identified by a pin cite.** A
 31 reply may cite only evidence attached to the motion or response and may not add new
 32 evidence. Because no controverting statement of facts will be permitted, the responding
 33 party, in the response or reply, must address all material facts raised in the motion or
 34 response. **Any fact that is not addressed may be deemed by the Court to be
 35 uncontested.**

1 under Rule 56 of the Federal Rules of Civil Procedure unless permission is first obtained
2 from the Court.

3 d. Failure to respond to a motion within the time periods provided in
4 Local Rule of Civil Procedure 7.2 may be deemed a consent to the denial or granting of
5 the motion and the Court may dispose of the motion summarily pursuant to Local Rule of
6 Civil Procedure 7.2(i).

7 e. A party desiring oral argument shall place the words "Oral
8 Argument Requested" immediately below the title of the motion pursuant to Local Rule
9 of Civil Procedure 7.2(f). The Court may issue an order scheduling oral argument as it
10 deems appropriate.

11 f. The parties are directed to the Electronic Case Filing Administrative
12 Policies and Procedures Manual for the District of Arizona with respect to providing
13 paper courtesy copies of certain filings to Chambers.

14 8. Deadline for Engaging in Good Faith Settlement Talks. All parties and
15 their counsel shall meet in person and engage in good faith settlement talks no later than
16 August 31, 2025. No later than **five working days** after the deadline set forth in the
17 preceding sentence, the parties shall file a joint report on settlement talks executed by or
18 on behalf of all counsel.

19 9. Settlement Conference Before a Magistrate Judge. The parties shall
20 indicate when assistance from the Court is needed in seeking settlement of the case.
21 **Upon a joint request by the parties**, the Court will refer the matter for a settlement
22 conference before a Magistrate Judge.

23 10. Consent to a Magistrate Judge as Presider. The parties shall confer
24 regarding possible consent to exercise of jurisdiction by a United States Magistrate Judge
25 as presider in this action. **If all parties agree** to consent to a United States Magistrate
26 Judge as presider in this action, the parties shall, **within 14 days** of the date of this order,
27 submit to the Clerk of Court in paper form Form AO 85, Notice of Availability of a
28 United States Magistrate Judge to Exercise Jurisdiction. This form is available on the

1 court's website at www.azd.uscourts.gov/forms. This form shall **not** be electronically
2 filed.

3 11. Deadline for Notice of Readiness for Pretrial Conference. The Plaintiff(s)
4 shall notify the Court that the parties are ready for scheduling of a Final Pretrial
5 Conference pursuant to Rule 16(d) of the Federal Rules of Civil Procedure. The
6 Plaintiff(s) shall file and serve this notice within **ten days** after the dispositive motion
7 deadline if no dispositive motions are pending on that date. If dispositive motions are
8 pending, Plaintiff(s) shall file and serve such notice within **ten days** after the resolution
9 of dispositive motions. The Court will then issue an Order Setting Final Pretrial
10 Conference that (a) sets deadlines for briefing motions in limine, (b) includes a form for
11 the completion of the parties' Joint Proposed Final Pretrial Order, and (c) otherwise
12 instructs the parties concerning their duties in preparing for the Final Pretrial Conference.
13 A firm trial date will be set at the Final Pretrial Conference.

14 12. Sanctions for Failure to Meet Deadlines. The parties are warned that failure
15 to meet any of the deadlines in this Order or in the Federal Rules of Civil Procedure
16 without substantial justification may result in sanctions.

17 If a party seeks an extension of any deadlines set forth in this Order, the party
18 must request the extension prior to the deadline and must set forth good cause for the
19 request. The Court will not extend any deadlines in this Order absent a showing of good
20 cause.

21 13. Briefing Requirements.

22 a. All memoranda filed with the Court shall comply with Local Rule of
23 Civil Procedure 7.1(b) requiring 13 point font in text and footnotes.

24 b. Citations in support of any assertion in the text shall be included in
25 the text, not in footnotes.

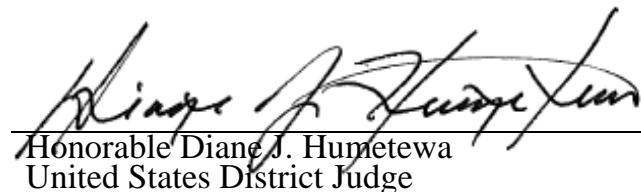
26 **TAKE NOTICE** that the deadlines contained herein are real. Pursuant to the
27 Civil Justice Reform Act of 1990 the Court is obligated to facilitate civil cases in a
28 manner which reduces delay of adjudication. The Court expects the parties to adhere to

1 the case management schedule as well as to the Federal Rules of Civil Procedure and
2 Local Rules. Requests to extend deadlines shall be made only under extraordinary
3 circumstances; *settlement negotiations do not constitute extraordinary circumstances.*

4 **IT IS FINALLY ORDERED** that the Rule 16 Scheduling Conference set for
5 December 18, 2023 is **VACATED**.

6 Dated this 12th day of December, 2023.

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Honorable Diane J. Humetewa
United States District Judge